THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.31299 of 1997
Date: 01 -05 -2007

Between:
B.Jagadeesh

Petitioner

And

State of Andhra Pradesh,
rep. by it's Principal Secretary to Government,
Revenue Department, Secretariat Buildings,
Hyderabad and others

Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.31299 of 1997

ORDER:

1. This writ petition is instituted seeking a declaration that the action of the respondents in not paying the compensation to the petitioner in pursuance of surrender of land with trees standing thereon in furtherance of C.C.No.1412/KVL/75 on the file of the second respondent as illegal, arbitrary and unconstitutional and to consequently direct the respondents to forthwith pay a sum of Rs.3,73,000/- together with interest, representing the amount of compensation determined and ordered to be paid by the second respondent in his Proceedings No.1412/KVL/75 on 30-06-1995.

2. The writ petitioner asserts that he is the nephew of one Uchuru Kodandarami Reddy who died issueless and executed a registered Will bequeathing the entire properties belonging to him in favour of the writ petitioner. It is said that the deceased-Kodandarami Reddy who possessed certain extents of agricultural lands is the declarant in C.C.No.1412/KVL/75 and he was determined as surplus land holder to a tune of 1.1465 standard holdings. The said Kodandarami Reddy accepting the determination, surrendered land equivalent to 1.1133 standard holdings on 29-01-1977. Since he has not surrendered land equivalent to 1.1465 standard holdings but had surrendered land less than the said extent, a notice was issued directing the declarant to surrender the balance extent of 0.0332 standard holdings of land. Since the

original owner Sri Kodandarami Reddy has passed away, the writ petitioner in whose possession the lands owned by Kodandarami Reddy were found, surrendered the balance extent of O.83 cents, which is equivalent to 0.0332 standard holdings on 21-03-1994. The writ petitioner therefore, started demanding payment of compensation for the lands surrendered, with the fruit bearing trees standing thereon. Thus began the long and arduous journey relating to the determination of compensation.

3. The Divisional Forest Officer, Nellore, who has been called upon to furnish the seinorage rates for the various trees standing on the lands surrendered by Kodandarami Reddy, had determined the same at Rs.3,73,000/- and communicated the same through his proceedings R.C.No.4298/94 F3 dated 30-03-1995 to the Additional Revenue Divisional officer, Land Reforms, Nellore. It has been found that there were in all 111 fruit bearing trees of various varieties standing on the lands surrendered by Kodandarami Reddy. The Collector, Nellore in turn took up the matter with the Commissioner of Land Reforms through his proceedings dated 12.5.1995 requiring the latter to make available the funds for enabling their disbursal. The Commissioner of Land Reforms in turn took up the matter with the State Government through his proceedings dated 01—08-1997 requiring the Government to issue necessary instructions in the matter. The Commissioner of Land Reforms has also pointed out that the matter was pending consideration of Government for a long period. Since the compensation amount has not been paid, the above writ petition came to be instituted on 24-11-1997.

4. The District Collector, Nellore, filed his counter affidavit and he had pointed out that the amount of compensation of Rs.3,73,000/- was eventually paid to the writ petitioner on 13.08.1998. The explanation for the delay in payment of

compensation is offered at Page No.3 of the counter affidavit filed by the District Collector in the following terms:

> *"Further, the Commissioner of Land Reforms & Urban Land Ceiling, in his reference LC.3.730/95, dt: 14.6.95 has requested the Collector, Nellore to obtain clear report from the Divisional Forest Officer, as to whether the compensation recommended was assessed on the seinorage rates notified by the Divisional Forest Officer, Nellore for the year 1977 and if so furnish a copy of the same to him for scrutiny. Accordingly the report was obtained from the Divisional Forest Officer, Nellore in his letter No.4298/94/F3, dated 30.6.95 giving details for fixation of the value of the trees at Rs.3,73,000/- and the same was sent to the Commissioner, Land Reforms & Urban Land Ceiling, A.P., Hyderabad in this office reference C.C.No.1412/KVL/75, dt: 30.6.95 and requested to provide an amount of Rs.373000/- for payment of compensation. The amount was released by the Government in G.O.Rt.No.591, Dt.18.04.98 and was paid to the Writ petitioner on 13-8-98 and the stamped receipt was obtained (Copy is enclosed).*
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> *In reply to para 3, it is submitted that it is a fact that Sri U.Kondandaramireddy is the declarant in C.C.No.1412/KVL/75 and he has surrendered an extent of Ac.3.70 in S.No.49/2 of Maddurupadu Village of Kavali Mandal towards surplus along with other lands.*
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> *In reply to para 4, it is submitted that the payment could not be made by the time the Writ Petition was filed in view of the further clarification issued by the Government and due to non-sanction of funds to Collector."*

5. I have heard Sri Sampath Prabhakar for the writ petitioner and the learned Government Pleader for Revenue for the respondents.

6. It has been contended that notwithstanding the surrender of large extent of land by Sri Kodandarami Reddy as early as on 29-01-1977, the amount of

compensation payable had not been paid for one reason or the other. Years have rolled by in the seemingly interminable correspondence indulged in amongst various agencies of the Government. At long last, the amount of compensation came to be paid to the writ petitioner on 13-08-1998 i.e. after a lapse of more than 21 and ½ years. The learned counsel for the writ petitioner strenuously urges that there is no justification whatsoever for such belated payment and the respondents have never exhibited any genuine concern or urgency in the matter and therefore, the claim for payment of interest is thoroughly justified.

7. Per contra, the learned Government Pleader would point out that the anxiety of various agencies of the Government in determining the amount of compensation payable is prompted by genuine concern to preserve and protect public revenue of the State and to ensure that excess amounts of compensation are not paid.. As custodians of public revenue every care has got to be taken by the State in protecting the larger public interest and ensure that no unnecessary dent is caused to the exchequer.

8. While there can hardly be any doubt as to the role of the State as the custodian of the public trust and therefore, it had to be doubly cautious and careful in the matter of determination of just compensation payable for those whose property had been vanquished but nonetheless a time lapse of 21 & ½ years is not justified by any parameters of reasonableness. Therefore, the correspondence in several rounds kept on being exchanged with one agency or the other is not a measure, which is considered or contemplated as part of protecting the interests of the State. The decision making authority has got to necessarily terminate the correspondence with reasonable promptness and take a decision in the matter. I therefore, do not find any justification whatsoever for the time lapse of more than 21 years for payment of compensation as attributable to

the diligent exercise of preserving and protecting the interests of the exchequer.

9. Payment of reasonable interest is considered and construed as a measure of compensating the loss sustained by an individual. The Constitution Bench of the Supreme Court had an occasion to consider the entire law on the subject and summarized as under in **Secretary Irrigation Department, Government of Orissa and others Vs. G.C.Roy:** [1]

> *" A person deprived of the use of money to which he is legitimately entitled has a right to be compensated for the deprivation, call it by any name. It may be called interest, compensation or damages."*

10. Therefore, payment of reasonable interest on monies due is a concept evolved as a measure of offsetting the losses sustained and is compensatory in nature. It will be also useful to refer in this context to what the Supreme Court has pointed out in **Hirachand Kothari Vs. State of Rajasthan** [2] as under:

> *" We are clearly of the view that the plaintiff having been deprived of the property was entitled to a reasonable rate of interest on the amount found to be due to him. In some what similar circumstances the court speaking through Gajendragadkar, J, in Satinder Singh's case (AIR 1961 SC 908), relied upon the speech of Viscount Cave, LC in Swift and Co. V. Board of Trade 1925 AC 520 at P.532 and observed:*
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> *"Stated broadly the act of taking possession of immovable property generally implies an agreement to pay interest on the value of the property and it is on this principal that a claim for interest is made against the State. This question has been considered on several occasions and the general principle on which the contention is raised by the claimants has been upheld. In Swift and Co. V. Board of Trade (1925 AC 520) (supra) it has been held by the House of Lords that on a contract for the sale and purchase of land it is the practice of the Court of Chancery to require the purchaser to pay*

interest on his purchase money from the date when he took, or might safely have taken, possession of the land." This principle has been recognized ever since the decision in Birch V. Joy (1852) 3 HLC 565. In his speech, Viscount Cave, LC added that " this practice rests upon the view that the act of taking possession is an implied agreement to pay interest", and he points out that the said rule has been extended to cases of compulsory purchase under the, Lands Clauses Consolidation Act, 1845. In this connection distinction is drawn between acquisition or sales of land and requisition of goods by the State. In regard to cases falling under the latter category this rule would not apply."

We are in respectful agreement with these observations. It was further held in Umrao Singh's case (AIR 1961 SC 908) that the Court had ample power under proviso to S.1 of the Interest Act, 1839 to award interest on equitable grounds. In all the facts and circumstances of the case, the reasonable rate of interest would be 6% per annum on the compensation amount of ……."

11. Therefore, I consider it appropriate that the compensation amount should have carried 6% of interest per annum. It is not in dispute that a large extent of land of approximately Ac.2.87cents has been surrendered and the State has taken possession of the same on 29-01-1977 and the balance land of 0.83 cents was taken possession by the State on 21-03-1994. Leaving out a reasonable time span of 1 year for determination and payment of compensation, the interest could have become payable on and from 1st of February,1978. Similarly for the lands surrendered on 21.3.1994, the interest component could have become available at least from 01-04-1995 onwards, till the same was actually paid on 13.08.1998. That would be around 2 lakhs of rupees. Since again it is difficult to dissect with accuracy the total number of trees which were standing in the land of an extent of Ac.2.87 cents and 0.83 cents and thus, instead of leaving further scope for speculation, I have considered it appropriate to quantify the amount at

50% of the total amount of compensation as reasonable amount representing the interest component. I therefore direct a sum of Rs.1,86,500/- be paid to the writ petitioner representing the interest payable on the amount of compensation. The aforesaid money of Rs.1,86,500/- be paid to the petitioner on or before 31-07-2007.

12. With this, the writ petition stands disposed of. No order as to costs.

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NOOTY RAMAMOHANA RAO,J

01-05 -2007
Stp

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[1] 1992 AIR SCW 389

[2] AIR 1985 SC page 998